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### NOTES OF CASES.

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**Malicious Prosecution—Liability of Corporation—Acts of Agent.**

—A corporation is liable for a malicious prosecution by its agent, acting within the scope of his employment and in furtherance of his company's business, notwithstanding the company may not have expressly authorized or ratified his act. *Fetty v. Huntington Loan Co.* (West Va., April 23rd, 1912), 74 S. E. 956.

**Note.**—No Virginia or West Virginia case is cited, but in *Transportation Co. v. Standard Oil Co.*, 50 W. Va. 611, 614, 40 S. E. 591, it is said a corporation is so liable. See 3 Va.-W. Va. Enc. Dig. 566.

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**Equity—Pleading—Amendment—Effect of Delay.**—An amended answer, offered five years after the filing of the original answer, is properly rejected; no excuse or reason being given for delay. *McSwegin v. Howard* (W. Va., April 23rd, 1912), 74 S. E. 948.

**Note.**—The authorities cited for this ruling are, quoting from the opinion: *Goldsmith v. Goldsmith*, 46 W. Va. 426, 33 S. E. 266. No excuse was shown for delay. *Foutty v. Poar*, 35 W. Va. 70, 12 S. E. 1096; *McKay v. McKay*, 33 W. Va. 724, 11 S. E. 213. Viewed as a cross-bill, it came too late. No excuse was given for delay. *Baker v. Oil Co.*, 7 W. Va. 454; *Barton's Ch. Pr.* 320; 5 Cyc. 653. This answer does not appeal to a court, because it reopens old transactions not in the bill or first answer.

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**Equity—Defect of Parties—Dismissal of Suit.**—If a plaintiff in a suit in equity will not bring in necessary parties by proper amendment and process, within a reasonable time after being ordered to do so, it is proper to dismiss his suit. *Bragg v. United Thacker Coal Co.* (W. Va., April 16, 1912), 74 S. E. 946.

**Note.**—No authority is cited for this ruling, but the case of *McMullen v. Eagan*, 21 W. Va. 250, supports it. See 4 Va.-W. Va. Enc. Dig. 703; 14 id. 341.

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**Banks and Banking—Functions and Dealings—Representation by Officer—Notice.**—Knowledge by one of the officials of a bank, acquired in a capacity other than as its representative, relating to infirmity in commercial paper offered for discount, is not notice to the bank when that official is also an officer of the corporation seeking the discount and has an interest in the transaction so adverse to the bank that the reasonable presumption is that he would not communicate the knowledge to it.

**Note.**—We seem to have no case directly on this point as to bank officers. See, however, 3 Va.-W. Va. Enc. Dig. 568, as to corporate